

THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

TIFFANY M. HOWARD, Individually and as the mother and natural guardian of A. M., an infant under the age of 18 years,)	Civil Case No.: 5:12-cv-0870
)	TJM/TWD
Plaintiffs,)	Hon. Thomas J. McAvoy
)	
v.)	
)	
TOWN OF DEWITT,)	
TOWN OF DEWITT POLICE DEPARTMENT,)	
OFFICER CHRISTOPHER FULLER, individually)	
and in his official capacity, OFFICER EDWARD)	
MASON, individually and in his official capacity,)	
OFFICER THOMAS NORTON, individually and)	
in his official capacity, SGT. KEITH BURY,)	
individually and in his official capacity,)	
Defendants.)	
)	

ORDER

Plaintiffs, Tiffany M. Howard, Individually and as the mother and natural guardian of A.M., an infant under the age of 18 years (collectively "Plaintiffs") having moved for partial summary judgment against Defendants, Town of DeWitt, Town of DeWitt Police Department, Officer Christopher Fuller, individually and in his official capacity, Officer Edward Mason, individually and in his official capacity, Officer Thomas Norton, individually and in his official capacity, Sgt. Keith Bury, individually and in his official capacity (collectively "Defendants"), having moved for summary judgment against Plaintiffs;

Now, upon the reading and filing of Plaintiffs' Notice of Motion, dated June 3, 2014; the Affidavit of Terrance J. Hoffmann, Esq., dated June 3, 2014, in support of the motion, with the exhibits attached thereto; Plaintiffs' Statement of Material Facts Not in Dispute dated June 3, 2014, in support of the motion; Plaintiffs' Memorandum of Law in support of the motion dated June 3, 2014; the Declaration of Jeffrey D. Brown, Esq., dated June 27, 2014, in opposition to the motion; Defendants' Memorandum of Law dated June 27, 2014, in opposition to the motion, with the exhibits attached thereto; and Defendants' Response to Plaintiffs' Statement of Material Facts Not in Dispute, dated June 27, 2014,

As well upon the reading and filing of Defendants' Notice of Motion, dated June 4, 2014; the Declaration of Jeffrey D. Brown, Esq., dated June 4, 2014, in support of the motion, with the exhibits attached thereto; the Affidavit of Officer Christopher Fuller, dated June 4, 2014, in support of the motion; Defendants' memorandum of law dated June 4, 2014, in support of the motion, with the exhibits attached thereto; Defendants' Statement of Material Facts, dated June 4, 2014; the Affidavit of Terrance J. Hoffmann, Esq., dated June 17, 2014, in opposition to the motion; the Affidavit of Tiffany M. Howard, dated June 17, 2014, in opposition to the motion, with the exhibit attached thereto; Plaintiffs' memorandum of law, dated June 17, 2014, in opposition to the motion; Plaintiffs' Response to the Defendants' Statement of Material Facts; the Declaration of Jeffrey D. Brown, Esq., dated July 3, 2014, in response and further support of motion; and Defendants' memorandum of law, dated July 3, 2014, in response and further support of motion.

A hearing concerning the motion having been held by the Court on July 23, 2014 in Binghamton, New York; and Defendants having appeared by Jeffrey D. Brown, Esq., of

Mackenzie Hughes LLP, and Plaintiffs having appeared by Terrance J. Hoffmann, Esq., of Hoffmann, Hubert & Hoffmann, LLP, and there having been oral argument;

And counsel to the parties having agreed to the terms of this Order, it is hereby

ORDERED, ADJUDGED AND DECREED that Plaintiffs' motion is denied; and it is

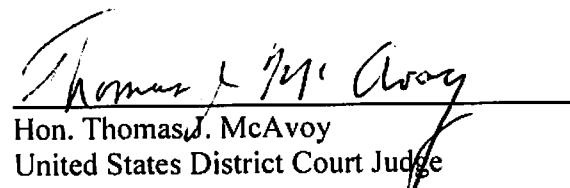
further

ORDERED, ADJUDGED AND DECREED that Defendants' motion is granted dismissing the claims against the Town of DeWitt Police Department and the Town of DeWitt, Plaintiffs' claims for violations of the New York State Constitution, Plaintiffs' claims for malicious prosecution, and Plaintiffs' claims for libel against Defendant Fuller; and it is further

ORDERED, ADJUDGED AND DECREED that any further proceeding required to give effect to this Order and to the Judgment to be entered by the Clerk shall be addressed to this Court.

IT IS SO ORDERED

Dated: August 20, 2014
Binghamton, New York



Hon. Thomas J. McAvoy
United States District Court Judge